

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATRICK O'SULLIVAN and CARMEL
O'SULLIVAN,

Plaintiffs,

-against-

BORG-WARNER CORPORATION, et al.,

Defendants.

ALVIN K. HELLERSTEIN, U.S.D.J.:

ORDER OF REMAND

12 Civ. 6437 (AKH)

This case was assigned to me for preliminary review to determine if it is related to 21 MC 102 and the 9/11 litigation cases. The case was removed from the New York Supreme Court by one of the defendants, Ford Motor Company. Upon review, I rule as follows:


1. Not all defendants appear to have joined or consented to the removal. 28 U.S.C. §1446(b)(2).
2. Plaintiff's allegation, that he was assigned by the Fire Department to work on Ford-made vehicles that were covered with fibres of asbestos because the vehicles "dealt with in the recovery efforts at the World Trade Center after the collapse of the buildings and in the many months thereafter" does not plausibly allege a claim for relief under the Air Transportation Safety and System Stabilization Act, 49 U.S.C. §40101, et. seq. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Accordingly, the case is remanded to the New York Supreme Court.

SO ORDERED.

Dated:

September 13, 2012
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge